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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/883,520	06/18/2001	John C. Parsons	1931.VIN	2425

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EXAMINER	
CHOI, PETER Y	
ART UNIT	PAPER NUMBER
1771	

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/10/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

Office Action Summary	Application No.	Applicant(s)	
	09/883,520	PARSONS ET AL.	
	Examiner	Art Unit	
	Peter Y. Choi	1771	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 October 2006*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-6 and 8-21* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-6 and 8-21* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *10/26/06*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

FINAL ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

2. Claims 1-6 and 8-16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claims contain subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention. As set forth in the Non-Final Rejection of September 11, 2006, sections 4-7, the specification is not adequately enabled for producing the polymer component having specific dispersibility properties, including a polymer with a glass transition temperature ("Tg") of -40°C to +105°C.

Response to Arguments

3. Applicants' arguments filed October 26, 2006, have been fully considered and are persuasive except as to the Tg. Paragraphs 0022-0026 of the specification appear to refer to a latex polymer including a polymer colloid, where the polymer colloid may be used to stabilize the latex polymer. Paragraph 0025 specifically refers to a colloid present in the latex polymer from 0.1 to 100 percent by weight. Subsequently, it is inferred, that the latex polymer comprising 0.1 to 100 percent by weight of the colloid, has a Tg of -40°C to +105°C. Applicants appear to suggest that USPN 6,423,804 to Chang teaches a polymer colloid present in a latex polymer from 0.1 to 100 percent by weight which will have a Tg of -40°C to +105°C.

Additionally, Applicants argue in the Declaration of October 26, 2006, that one of general knowledge in the polymer arts would be able to make a resin with the claimed Tg of -40°C to +105°C based on the Tg of the individual monomers.

Examiner respectfully disagrees. First, the specification does not provide an enabling disclosure for a colloid-stabilized, tap water-dispersible polymer comprising 100 percent by weight of a hydrophilic monomer which will have the claimed Tg of -40°C to +105°C. If the polymer comprises 100 percent of a hydrophilic monomer, the polymer will contain 0 percent of the colloid which is required in the specification. Second, the Chang reference does not appear to teach a colloid-stabilized, tap water-dispensible polymer with a Tg of -40°C to +105°C. Third, although Applicants argue that one of general knowledge in the polymer arts would be able to make a resin with the claimed Tg of -40°C to +105°C based on the Tg of the individual monomers, the Applicants do not provide evidence of such knowledge. Lastly, the Declaration of October 26, 2006, page 5, section 10, appears to contradict the specification which suggests that the polymer colloid percentage in the latex polymer is primarily responsible for the claimed Tg, as opposed to the composition of the individual monomers, as suggested in the Declaration. Therefore, the claimed polymer is unsupported in the specification and does not comply with the enablement requirement.

Claim Rejections - 35 USC § 112

4. The following is a quotation of the second paragraph of 35 U.S.C. 112:

> The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicants regard as their invention.

5. Claim 17 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicants regard as the invention. Claim 17 recites the limitation "said hydrophobic monomer." There is insufficient antecedent basis for this limitation in the claim. It appears that the claim should recite "said non-hydrophilic monomer" as there is sufficient antecedent basis for that limitation. Appropriate correction is required.

Claim Rejections - 35 USC § 102/103

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

7. Claims 1, 8, 10, 13, 14, and 17-21 are rejected under 35 U.S.C. 102(b) as being anticipated by, or alternatively under 35 U.S.C. 103(a) as obvious over, USPN 5,631,317 to Komatsu.

Regarding claims 1, 8, 10, 13, 14, and 17-21, the Komatsu reference discloses a non-woven material comprising a web of fibers and an emulsion binder comprising a colloid-stabilized, tap water-dispersible polymer which is non-dispersible in aqueous solutions

containing 0.5 weight percent or more of an inorganic salt, and wherein said colloid-stabilized, tap water-dispersible polymer comprises from 1 to 100 percent by weight of a hydrophilic monomer selected from the group consisting of acidic monomers containing a carboxylic acid moiety, dicarboxylic acid moiety, a sulfonic acid moiety, or combinations thereof, and from 0 to 99 percent by weight of at least one non-hydrophilic monomer selected from the group consisting of (meth)acrylates, maleates, (meth)acrylamides, vinyl esters, and combinations thereof, wherein said polymer has a Tg of from -40°C to +105°C, and wherein said binder comprises, or consists of, an aqueous emulsion residue which exhibits salt sensitive dispersibility in tap water (see entire document including column 2 lines 21-67, Example 10, column 4 lines 14-24, column 5 lines 38-44, column 1 lines 44-48).

It should be noted that the Declaration of October 26, 2006, page 5, section 10, states that "it would be within the general knowledge of those skilled in the polymer arts to make a resin with the claimed glass transition temperature of -40°C to +105°C. That the Tg of the polymer can be easily controlled by the monomer composition, based on the Tg of the individual monomers."

Regarding claim 10, a non-woven article comprises the claimed non-woven material (column 5 lines 58-61).

Regarding claim 8, the non-woven articles further comprises a lotion containing at least one ingredient selected from the group consisting of sodium chloride solution, preservatives, boric acid, bicarbonates, moisturizers, emollients, surfactants, humectants, alcohols, water, and fragrances (column 1 lines 7-13).

Regarding claim 13, the Komatsu reference does not appear to disclose a wet tensile strength in 3 percent aqueous inorganic salt solution of at least 100 g/in, and a wet tensile strength in tap water of at least 40 g/in. However, the claimed properties are deemed to be inherent to the structure in the prior art since the Komatsu reference teaches an invention with a similar structural and chemical composition as the claimed invention. Properties are the same when the structure and composition are the same. The burden is on the Applicants to prove otherwise. *In re Fitzgerald,* 205 USPQ 594 (CCPA 1980).

In the event it is shown that the Komatsu reference does not disclose the claimed invention with sufficient specificity, the invention is obvious because the Komatsu reference discloses the claimed constituents and discloses that they may be used in combination.

Claim Rejections - 35 USC § 103

8. Claims 2-6, 9, 11, 12, 15, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over USPN 5,631,317 to Komatsu, as applied to claims 1, 8, 10-14, and 17-21, in view of USPN 5,976,694 to Tsai.

Regarding claims 2-6, 9, 11, 12, 15, and 16, Komatsu is silent with regards to specific properties of the non-woven material. Therefore, it would have been necessary and thus obvious to look to the prior art for conventional materials. Tsai provides this conventional teaching showing that it is known in the water-dispersible fabric art to use wood pulp fibers having a length of less than 0.5 cm in an air-laid non-woven material comprising 70 to 85 percent by weight of fibers, the non-woven material having a basis weight of from 20 to 200 gsm and further comprising a binder add-on of from 2 to 50 percent by weight (Tsai, see entire document

including column 6 lines 38-58, column 5 lines 40-44, column 7 lines 10-18, column 7 lines 30-50, Examples 10-16). Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to make the non-woven material from Komatsu with the specific properties, as taught by Tsai, motivated by the expectation of successfully practicing the invention of Komatsu.

Regarding claim 12, the non-woven article further comprises at least 0.5 percent by weight of inorganic salt, or a mixture of inorganic salt (Komatsu, column 4 lines 52-66).

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Y. Choi whose telephone number is (571) 272-6730. The examiner can normally be reached on Monday - Friday, 08:00 - 15:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Peter Y. Choi
January 3, 2007

ANDREW PIZIALI
PRIMARY EXAMINER